

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER  
AFFAIRS STATE OF CALIFORNIA**

**In the Matter of the Accusation Against:**

**CHRISTOPHER MICHAEL DEWAR, M.D.,**

**Respondent**

**Agency Case No. 800-2019-051929**

**OAH No. 2021010032**

**DECISION AFTER NON-ADOPTION**

Mary Agnes Matyszewski, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by video and teleconference on July 26, 2021, due to the ongoing COVID-19 pandemic.

Robert Lincoln, Deputy Attorney General (DAG), represented complainant, William Prasifka, Executive Director, Medical Board of California (Board), Department of Consumer Affairs (Complainant).

Nicole Irmer, Attorney, Law Office of Nicole Irmer, represented respondent, Christopher Michael Dewar, M.D., (Respondent) who was present.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on July 26, 2021. Identifying information was redacted from the exhibits after submission.

A proposed decision was issued on August 20, 2021. On November 23, 2021, Panel A of the Board issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by Panel A on February 9, 2022, with ALJ Danette Brown presiding. DAG Robert Lincoln appeared on behalf of the Complainant. Respondent was present and was represented by Nicole Irmer, Attorney at Law. Panel A, having read and considered the entire record, including the transcript and the exhibits, and having considered the written and oral argument, hereby enters this Decision After Non-Adoption.

## **FACTUAL FINDINGS**

### **Licensing and Jurisdictional Background**

1. The Board issued Physician and Surgeon's Certificate No. A 116385 to Dr. Dewar on April 1, 2011. The May 12, 2020, license certification introduced at hearing stated that Dr. Dewar's certificate was current with an expiration date of April 30, 2021. A more recent license certification was not offered, but the Board's website reflects that Dr. Dewar's license is current and will expire in 2023. There is no history of discipline against Dr. Dewar's medical license.

2. The accusation was signed by Complainant in his official capacity on October 21, 2020. Complainant alleged that Dr. Dewar subjected his license to discipline because in 2019 he was convicted of a substantially related offense, used alcoholic beverages to an extent or a manner that was dangerous to himself or the public, and his actions constituted unprofessional conduct.

3. Complainant served all required jurisdictional documents on Dr. Dewar who timely filed a notice of defense, and this hearing followed.

### **Dr. Dewar's Education and Employment History**

4. Dr. Dewar received a Bachelor of Engineering, in biomedical engineering, from Vanderbilt University in 2004. He received his medical degree from Saint Louis

University School of Medicine in 2008. He did a residency in emergency medicine at North Shore University Hospital, affiliated with New York University School of Medicine, from 2008 to 2011, with a trauma rotation in 2009 at the University of Maryland Shock Trauma Center. He published an article in the *Annals of Emergency Medicine* in 2010 and is board certified in emergency medicine.

Dr. Dewar began practicing in San Diego in the Kaiser Hospital and Alvarado Hospital emergency rooms, and at some urgent care centers. He later worked emergency room shifts at Enloe Hospital in Chico, where over time, he has focused his practice. Dr. Dewar continues to live in San Diego, because he loves the beach, and commutes each week to Chico for work. Dr. Dewar recently became a partner with the Chico Emergency Physicians Medical Group.

## **Dr. Dewar's 2019 Conviction and Underlying Arrest Documents**

### **SUPERIOR COURT CRIMINAL RECORDS**

5. On April 3, 2019, in Colusa County Superior Court, case no. CR60658, Dr. Dewar, who was represented by counsel, was convicted, on his plea of guilty, of violating Vehicle Code section 23153, subdivision (a), which prohibits "a person, while under the influence of any alcoholic beverage, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver," a misdemeanor. The accusation mistakenly alleged that he was convicted of violating Vehicle Code section 23152, subdivision (a), but he was not charged with that code section and his plea form stated "23153."

6. The Misdemeanor Complaint filed against Dr. Dewar alleged three Vehicle Code violations and it appeared that in exchange for his plea, the other charges were dismissed, but that was unclear because no court documents regarding the sentence or probationary terms were offered at hearing. Dr. Dewar informed the Board that he was sentenced on April 3, 2019, to three years of probation; ordered to attend five days of work release; enroll and complete a three-month first offender DUI program; and pay

finest and fees of \$1,858. He made the same statements at his physician interview and while testifying.

7. On June 28, 2021, the superior court issued an Order for Dismissal, granting Dr. Dewar's petition for dismissal pursuant to Penal Code section 1203.4. The court ordered Dr. Dewar's guilty plea set aside and vacated, a plea of not guilty entered, and the criminal complaint filed against him dismissed. Dr. Dewar testified that because of his compliance with all court orders and early completion of his probationary terms, the court granted his Penal Code section 1203.4 petition. Dr. Dewar is no longer on any criminal probation.

### **CHP REPORT**

8. A California Highway Patrol (CHP) "Driving Under the Influence Arrest-Investigation Report" was received in evidence under *Lake v. Reed* (1997) 16 Cal.4th 448, 461-462, which sets forth how arrest reports may be received. The report documented that on December 14, 2018, at approximately 6:00 p.m., the reporting CHP officer was dispatched to the scene of a two-car collision. The CHP officer observed two vehicles off the roadway with obvious collision damage. Dr. Dewar was still at the scene, but the other driver had fled. Dr. Dewar advised that he was driving from Chico to San Francisco at about 60 mph. He did not know where he was, but was following Google maps. He did not see the other vehicle or hear anything prior to the collision. All he recalled was his vehicle spinning and his airbags deploying. While speaking with Dr. Dewar, the CHP officer noted that his eyes were red and watery, his speech was slow and slurred, he had an unsteady gait, and he had the odor of an alcoholic beverage on his breath.

The CHP officer asked Dr. Dewar a set of pre-field sobriety test questions and had him perform field sobriety tests, which Dr. Dewar failed. Dr. Dewar agreed to submit to a Preliminary Alcohol Screen (PAS), a type of breath test. The reporting CHP officer administered the PAS and Dr. Dewar blew a 0.161 percent after providing a strong breath sample. Dr. Dewar was arrested and while in custody, initially agreed to perform a breath test. He then refused and instead requested a blood draw, the results

of which were 0.16 percent. Contained within the CHP records was the notification from the DMV suspending Dr. Dewar's driver's license, a fact that Dr. Dewar acknowledged in his testimony. His driver's license has since been fully restored.

### **Dr. Dewar's Report to the Board**

9. An undated "Criminal Action Reporting Form" contained the date of Dr. Dewar's conviction, the name and contact information of his criminal defense attorney, and listed three Vehicle Code sections of which he had been convicted. These were the same three code sections pled in the Misdemeanor Complaint, as noted above, but Dr. Dewar only pled guilty to violating one of these three code sections. The box indicating his plea was "nolo contendere" was checked, but Dr. Dewar had entered a plea of "guilty." No explanation for these discrepancies was offered at hearing.

### **Dr. Dewar's Letter to the Board and Emails with Board Investigator**

10. On August 9, 2019, Dr. Dewar authored a letter to the Board in which he wrote:

It is painful to write this, but on December 14th I was cited for DUI. I had just finished a string of shifts in the emergency room and was off work for the next 10 days. My girlfriend's flight was delayed and I had several hours to spare before picking her up and ended up stopping at a casino by the airport, which is very uncharacteristic of me. Shortly after leaving I was in a collision with another vehicle whose driver fled the scene. My rental car was totaled, I had alcohol on my breath and had been drinking.

There is no excuse for my actions and I am so ashamed. This was not behavior fit for a physician, or anybody for that matter. I have never been in any sort of trouble my entire life and this is very unfamiliar territory for me.

Since the accident I have met with the Wellness Committee at my hospital as well as with a therapist specializing in physician alcohol abuse. I am in good standing with my hospital and physician group and I am not drinking. I have had a tremendous amount of time to think about my actions and can confidently say it will never happen again.

11. Emails exchanged with the Board's Special Investigator, Lauren Nickell, who was attempting to schedule Dr. Dewar's interview, demonstrated Dr. Dewar's polite, courteous, and accommodating demeanor exhibited towards Ms. Nickell.

12. During his interview, Dr. Dewar stated that he has never been named in a malpractice lawsuit, has never had privileges or coverage revoked or denied, he takes Ambien when he works in Chico to help with his sleep cycle given that he works night shifts, and he explained the facts surrounding the accident which were consistent with his testimony at this hearing. The transcript of the interview also demonstrated Dr. Dewar's polite and straightforward responses to Ms. Nickell's questions.

### **Forensic Medical Evaluation**

13. Clark Smith, M.D., performed a comprehensive forensic psychiatric evaluation of Dr. Dewar. Dr. Smith obtained his Bachelor of Science, with Distinction, in Zoology, from Arizona State University in 1976. He received his medical degree from the University of Arizona in 1981. His area of special interest was pharmacology. Dr. Smith did an internship from 1981 to 1982 at Samaritan Medical Center in Phoenix. He completed his residency in psychiatry from 1982 to 1984 at the University of California, San Diego (UCSD). He was the Medical Director at the San Diego Health Alliance methadone clinic from 1982 to 1985. He was Chief Resident at UCSD from 1984 to 1985. He was an Emergency Room Physician at Hillside Hospital in San Diego from 1983 to 1985. Dr. Smith underwent advanced training and supervision at Short Term Dynamic Psychotherapy from 1984 to 1986. He was Chief of Medical Staff at Mesa Vista Hospital from 1993 to 1994. He was the President of San Diego Psychiatric

Society from 1994 to 1995. Dr. Smith was an Editorial Advisor of *Drug Abuse and Alcoholic Newsletter* from 1995 to 1998. He served on the Board of Directors for Vista Hill Foundation from 1994 to 1998 and was the Medical Director at Sharp McDonald Center (formerly Vista Pacifica Hospital) from 1989 to 2012. He has served as the Medical Director for several detox and recovery facilities.

Dr. Smith was the San Diego Representative of the American Psychiatric Association National Assembly from 2009 to 2013. Dr. Smith has had a private practice in forensic and addiction psychiatry since 1985. Dr. Smith has served on several Committees, some in leadership positions, and received numerous honors and awards, including being Chief Resident, Chief of Medical Staff and Distinguished Fellow and has made several presentations and has one publication. Dr. Smith is a board certified psychiatrist, board certified forensic psychiatrist, board certified addiction psychiatrist, and board certified pain medicine physician.

14. Dr. Smith performed his evaluation on April 8, 2021, authored a report, and testified in this hearing consistent with it. As part of his evaluation, he reviewed several sources of information, including all the exhibits offered at this hearing, interviewed Dr. Dewar where he took a detailed chemical dependency history, psychosocial history, psychiatric history, medical history, family history, and legal history. Dr. Smith administered a clinical psychiatric mental status examination. Dr. Dewar's family history was negative for substance use disorder. He had no prior legal offenses. "He is prescribed Ambien 5 mg which he takes approximately four times per month to enable circadian rhythm shifts to Night Shift work" and denies ever having problems related to its use. He has never consumed alcohol on a daily basis and denies any problems related to alcohol, recreational, or prescription drugs. He consumed alcohol approximately two times per month, two to three drinks maximum. After his DUI arrest, he stopped drinking alcohol completely, last consuming alcohol on December 14, 2018, the day of his DUI arrest.

15. Dr. Smith discussed with Dr. Dewar the events leading to his DUI arrest. Dr. Dewar had been working at Enloe for five days and last took Ambien on December 9, 2018. He traveled to Sacramento to pick up his girlfriend at the airport for a planned

ski trip. He worked until 6:00 a.m., woke up after only four or five hours of sleep to go to the airport, but her flight was delayed. He drank one beer at approximately 3:30 p.m., then two more during subsequent flight delays. He felt tired from lack of sleep, but did not believe he was impaired to drive. He was driving to the airport at approximately 7:00 p.m., turning left at an intersection when he was involved in a hit and run accident, struck by another driver. Dr. Dewar was not cited for the traffic accident, but he failed the field sobriety testing. His blood alcohol level was approximately 0.16 percent. (This recounting was similar to Dr. Dewar's testimony, although he added a few more details which are noted below in this decision.) Dr. Dewar cooperated with the arresting officer and complied with the court orders, including completing a three-month first conviction program, educational classes and counseling sessions, face-to-face interviews, and self-help meetings. Dr. Dewar "was completely transparent with his medical practice group and was named as a full partner in the group in 2020." He also completed the University of California at Irvine (UCI) School of Medicine Medical Ethics and Professionalism course on April 17, 2021.

16. The Mental Status Examination that Dr. Smith performed documented that Dr. Dewar was "prompt and professional, well-groomed and cooperative with the evaluation. His affect was euthymic and he showed no signs of anxiety or depression. His insight and judgment were completely intact." His "[c]ognitive function showed clear sensorium; he was alert and oriented times three; short and long-term memory was intact." Dr. Smith's Psychiatric Assessment was: Axis I: No diagnosis of Substance Use Disorder; Axis II: No personality disorder diagnosis; and Axis III: No medical diagnosis. Dr. Smith wrote:

Although he was not a regular drinker, he has stopped drinking completely. Because this was his only alcohol related problem, he does not meet criteria for a substance use disorder.



17. Dr. Smith's "Recommendations" were:

Based upon more than 30 years of experience in evaluating medical professionals for potential substance use disorders, Dr. Dewar does not require any additional treatment or toxicology testing, because he does not meet DSM V [sic] criteria for an alcohol Substance Use Disorder. He has had no problems related to his practice of medicine. He has had no subsequent problems in the last 2-½ years since his arrest, and he continues to function at a very high level. He has stopped drinking alcohol completely, and I consider it very unlikely that he will have any future problems related to alcohol.

18. Dr. Smith testified similar to his report. He has been practicing in his field for more than 30 years. In residency he worked with hard-core addicts through a methadone clinic and continued to treat patients with addictions afterwards. In 1989, a new hospital for addiction treatment, Sharp McDonald Center, was opening and he moved to San Diego to work there. He stayed there for 23 years and since leaving he treats out-patients for drug and alcohol problems.

Dr. Smith described his evaluation of Dr. Dewar, with the interview portion lasting one and one-half to two hours. Dr. Smith explained that Dr. Dewar had "one problem," this incident, he did not have a pattern or recurring incidents, so he did not qualify for a substance abusing diagnosis. Dr. Smith does not believe there is an issue that this will recur. Alcohol is not that important to Dr. Dewar, and he completely stopped drinking after his arrest. Dr. Dewar completed all the court-ordered courses.

Dr. Smith does not find that Dr. Dewar needs any treatment or testing because he does not meet the criteria for substance abuse disorder. Dr. Dewar has no psychological or addiction issues that would make him a danger to the public.

## **Dr. Dewar's Testimony**

19. Dr. Dewar testified in a straightforward, contrite manner. He expressed sincere remorse for his actions and has taken numerous steps to demonstrate his commitment to this never occurring again.

Dr. Dewar explained that he flies up to Chico two times a month to work two sets of emergency room shifts and flies back to San Diego in his off time. He is the Director of Patient Care at Enloe. He notified his partners after the accident, before charges were filed, fully disclosing to them all that occurred. He was still voted a full partner in 2020, having been with his medical group for seven years. He is in good standing with that group. His supervisors get regular feedback about his performance from both nurses and patients, all of which is positive. When Covid happened, he took on the role of "Covid leader" because several of the physicians at Enloe are older or have chronic medical conditions. As the Covid leader, he performs five or six overnight shifts, treating only respiratory patients, so that other physicians are not placed at risk.

To alleviate stress, he "exercises, sleeps and bikes a lot." He used to bike all the time in San Diego, but he has since bought a bike in Chico so he can bike there, too. He remains in contact with the Wellness Committee, as well as family and friends. He has a longtime girlfriend who is a social worker, and she has "been with me the whole time through this"; "she is very supportive."

Dr. Dewar described the events leading to his arrest. He rents his Chico home on Airbnb when he is away and was awakened early by the family who had rented it. They arrived hours ahead of their scheduled check in time, but they had two young sons, so Dr. Dewar let them move in and he left. Since he had not planned on leaving that early, Dr. Dewar had no place to go, so he went to a local casino, something he had not done before, and played poker "to kill time." The plan had been to pick up his girlfriend and drive to San Francisco for a Christmas party and then go to Mammoth to snowboard. His girlfriend's flight was delayed several times so he stayed longer at the casino than he intended and drank beer. He thought he was okay to drive. While driving

to the airport, the sun was going down and it started to rain. He was on an unfamiliar road, using GPS navigation, when he was suddenly struck on the passenger side of his vehicle. Both cars spun around, Dr. Dewar's airbags deployed, and the two cars ended up off the road in a ditch. The other driver got out, "jumped into a white pick-up truck" and left the scene. Dr. Dewar waited at the scene for police to arrive where he was arrested for DUI. Dr. Dewar later learned the other driver had bruised ribs.

Dr. Dewar was "shocked" at his blood alcohol content level. He was "ashamed I could do that, I could put people at risk." When he left the casino, he did not think he was impaired, but clearly, he had drunk "too much." In hindsight he should have skipped the casino altogether, not drunk any alcohol, and absolutely not driven a vehicle after drinking alcohol. To satisfy the first offenders program requirement, he enrolled in a three-month program in San Diego that involved attending educational courses, three individual face-to-face meetings with a counselor, 12 one-hour counseling sessions, three Alcoholics Anonymous meetings, and six two-hour classes. Dr. Dewar has completed all court-ordered programs. The program was "definitely a deterrent for me." He is no longer on probation because his petition to terminate probation early was granted; his probation was supposed to end in April 2022, but ended in June 2021.

Dr. Dewar explained that he realized alcohol led to his situation so he stopped drinking that night. He did not want to continue to risk that this could happen again. Since ceasing drinking, he feels healthier, he is more self-aware, he exercises more, he sleeps better, and all things in his life are better. He immediately disclosed his arrest to his supervisors who expressed their disappointment and surprise, but "inevitably were supportive" of him. He also disclosed the Board action to his employers and they have continued to support him. His supervisors had him meet with the Wellness Committee, which he did three times. They evaluated him and cleared him to practice without any restrictions. The Committee members, like him, believed this was an isolated incident that will not be repeated. He understands that being licensed is a privilege, not a right and how much he jeopardized. As he stated, "Overall I took a lot away from the" profession by his actions.

Dr. Dewar also fully appreciates what could have happened since he sees the bad outcomes of DUIs all the time in the Emergency Room. He is committed to never drinking again, never having an incident like this one occur again, and he took multiple professional ethics and other courses to demonstrate his commitment to that end. As he explained, he has given this “a tremendous amount of thought.” He has reflected on his “reckless behavior, immature act, there is no one to blame, this is all on me.” He wanted to assure the Board that this will never happen again because “having gone through the criminal process, losing his driver’s license for a period of time,” and taking numerous courses, in and of themselves posed so many challenges and acted as a deterrent, as well as “seeing the look on the faces of his colleagues,” who looked at him with “how could you do this?” expressions given that he sees firsthand in the emergency room DUI victims and casualties, for which he had no answer. All he can explain is that at the time, he felt invincible, as if the rules did not apply to him, but he definitely does not feel invincible now and knows full well that the rules apply to him. He does not believe further action by the Board is necessary, but he is happy to do it. Dr. Dewar further explained that being an emergency physician is something he takes great pride in, it is the biggest part of his identity, and he is now even more committed to being an excellent emergency physician.

Dr. Dewar’s testimony and presentation at this hearing was earnest, sincere, and contrite. His commitment to his sobriety was palpable and the numerous things he has done to demonstrate his changed behavior was powerful. Dr. Dewar made a very credible witness.

### **Character Witnesses’ Testimony and Letters of Support**

20. Medhi Sattari, M.D., Chico Emergency Physicians Medical Group (CEPMG) CEO and President, the group which employs Dr. Dewar, testified and authored a letter on Dr. Dewar’s behalf. In his letter to the Board, written under penalty of perjury, on June 21, 2021, Dr. Sattari wrote that he is a board certified emergency physician, the current president and CEO of CEPMG, and a member in good standing at Enloe. He has had “the pleasure of working with Dr. Dewar since 2017 when I

started working at Enloe via CEPMG.” Dr. Sattari wrote:

During this period I have come to regard Dr. Dewar as a valuable member of our team. To my knowledge he has delivered consistent quality care to his patients. I have seen him consistently conduct himself professionally in all my interactions with him. I regard him to be a thorough clinician who delivers excellent compassionate care. He is knowledgeable in his field and his integrity is beyond reproach. I would gladly have him care for myself or any member of my family if I was to need medical care.

Dr. Sattari wrote further that Dr. Dewar has been forthright about his DUI. Dr. Dewar “recognizes the mistakes he made leading to that event and has taken unqualified ownership of the blame. I have never seen him nor heard of him being intoxicated or incapacitated during or outside of work other than the matter that is before you.” Dr. Dewar “has learned a valuable lesson and will work hard to ensure he would never be in a similar situation again.” Dr. Sattari concluded:

I humbly ask that you take these observations from a colleague and a leader of his medical group (CEPMG) into consideration. I hope that you will allow him to continue to provide excellent medical care at [Enloe] without any restrictions. Thank you for considering my request and I thank you for your ongoing work.

21. Dr. Sattari testified consistent with his letter. He described Dr. Dewar as “an honest human being.” Dr. Dewar works out, and Dr. Sattari has “a lot of faith in his integrity.” He explained that emergency room physicians “work in a high stress environment, you get to know your colleagues very quick”; in that type of pressure, “people’s colors come out pretty quickly,” it “comes through rather quickly after a few events.” Dr. Sattari has discussed Dr. Dewar with other colleagues and he enjoys a reputation of having “ethics, being a good and honest person, being a hardworking

member of the team, and someone you can rely on.” Dr. Dewar informed Dr. Sattari of the Board action when it first occurred. In discussing this incident, Dr. Sattari found Dr. Dewar to be forthright, remorseful, as someone who “got it,” and Dr. Sattari “got a strong sense that [Dr. Dewar] was committed to do whatever it took to make it right.” Dr. Sattari has “no concerns regarding [Dr. Dewar’s] ability to practice and thankfully have him as a team member” as Dr. Sattari would allow Dr. Dewar to treat “my family or myself.”

22. On December 9, 2020, John Whitman, M.D., Medical Director of CEPMG, authored a letter under penalty of perjury “in support of my friend and colleague.” Dr. Whitman wrote that he is board certified in emergency medicine and has been the medical director at Enloe Emergency Department for the past three years. He has worked at Enloe for six years and been an emergency physician in California for 11 years. He has worked with Dr. Dewar for the past six years during which time he worked alongside him on many occasions. He has read many of Dr. Dewar’s physician care notes and is “very familiar with his practice style.”

Dr. Whitman wrote, “Dr. Dewar is an outstanding Emergency Physician. He routinely displays a sharp eye for subtle details and a deep caring for his patient’s well-being. Dr. Dewar is heavily involved in education and is an asset to our group.” Dr. Whitman is aware of the charges against Dr. Dewar as he “volunteered this information to our group shortly after the incident occurred. At that time, he was asked to undergo an evaluation by the Enloe Wellness Committee. The Committee felt that this incident was an aberration and not likely to become a recurring problem. Throughout this process Dr. Dewar has been both forthright and contrite.” Dr. Whitman wrote that Dr. Dewar’s behavior on the night of his arrest was “totally out of character for him.” Dr. Whitman believes that “Dr. Dewar has learned a valuable lesson and I support him going forward.”

23. On December 10, 2020, Dr. Whitman authored a second letter in which he wrote that Dr. Dewar “is a full partner” with the group, “is in good standing,” and “is a highly valued member of our team.”

24. Armin Perham Poordbbagh, M.D., (Dr. Perham), authored a letter on March 1, 2021, under penalty of perjury. Dr. Perham is a board certified emergency physician who practices at Enloe. He has been a practicing physician for 13 years and is currently part of the leadership team of the medical group and the scheduler. He has "had the privilege to work alongside Dr. Dewar for the past 10 years" having worked together at Alvarado Medical Center and Enloe. Dr. Perham and Dr. Dewar trained at the same residency program and although they did not overlap, Dr. Perham has "intimate knowledge of [Dr. Dewar's] training. He is an excellent clinician and is capable of utilizing all of his resources at our community hospital." Dr. Perham wrote:

I have witnessed Dr. Dewar grow as a physician. He has accumulated clinical knowledge throughout the years we have worked together and his workup and assessment of patients is always thorough. Dr. Dewar will often extend his night shift hours, in order to ensure high quality and continuity of care for his patients. He is a considerate physician and helps provide patient centered care. Professionally or personally I have never seen a lapse of judgment. I consider him a valuable member of our group serving [Enloe].

Dr. Perham wrote that Dr. Dewar "opened up to me regarding this matter. I note this was not easy to discuss with a senior partner. However, he was transparent, honest and showed remorse. [He] has taken ownership of the situation and his lapse in judgment. I do not believe the situation will ever occur again." Dr. Perham concluded by writing:

In light of the discussion at hand I would like the California Medical Board to consider the fact that I trust his judgment completely. I know [Dr. Dewar] to be a thoughtful, compassionate human and thorough physician. He is an asset to our community and it is my hope you will allow him to continue to provide quality compassionate care at [Enloe].

25. Ed O'Regan, M.D., Chair of the Enloe Wellness Committee, authored a letter March 10, 2021. He wrote that Dr. Dewar was interviewed and had ongoing interaction with them Wellness Committee from January to the end of May 2019 on multiple occasions. "Details and actual documents of his DUI" were available and reviewed. Dr. O'Regan wrote:

Interviews and clinical performance data were collected from the Emergency Department and the Enloe Medical Staff Office (i.e. looking for problem behavior, complaints, or trends). He was referred to a local drug and alcohol [marriage and family therapist] for introduction and support.

The Committee concluded that Dr. Dewar would not have benefited from further evaluation or treatment germane to alcohol abuse. He did not demonstrate any danger to the public, himself, or his career. This unfortunate event (i.e. DUI and MVA) although serious, shocking, and irresponsible appeared to be an isolated incident of recklessness.

There have been no clinical concerns reported before or since this incident. He is well regarded by peers, patients, and staff. His privileges were not sanctioned or suspended. It is notable that the court mandated consequences, recommendation and public service were quite robust and extended well into the fall of 2019.

26. Travis Leleu executed a letter under penalty of perjury on December 26, 2020. He has known Dr. Dewar for 20 years and wrote:

I have always been able to depend on [Dr. Dewar] to be a kind, moral, and responsible person. [Dr. Dewar] is the first person that his friends think of when they need help; he is the kind of person to give you the proverbial shirt off his



back if you need it. I can attest, without reservation, to the high quality of [Dr. Dewar's] moral character and high standing in the community.

When not working in the ER, [Dr. Dewar] literally builds his presence in the Chico community. He spends his days off renovating rundown houses, which improves the neighborhood while providing affordable and comfortable housing to hospital workers and patients' families. I think you'll find agreement amongst his colleagues (whom [Dr. Dewar] regularly feeds after particularly hard shifts) that [Dr. Dewar] is an important member of his community.

Finally, when [Dr. Dewar] makes mistakes, he is noted for admitting wrongs and making sure he doesn't repeat them. Like the rest of us, he isn't perfect – but I will attest to his determination to make progress and learn from mistakes.

I whole-heartedly support [Dr. Dewar]. I am proud to call him my friend and strongly recommend he be allowed to continue serving his community by saving lives in the ER.

## **Dr. Dewar's Documents**

27. Dr. Dewar submitted records from SOBERLINK, whose website states that it is a "professional-grade breathalyzer system with facial recognition that automatically sends results in real-time to designated individuals." Its system is tamperproof and has been approved in all 50 states. Between June 8, 2021, and July 24, 2021, Dr. Dewar had 99 compliant tests; zero missed tests; and zero non-compliant tests. Dr. Dewar testified, without objection, that during the settlement conference, the

Administrative Law Judge who conducted it asked him if he had documentation to verify that he was not drinking. As a result of that comment, he immediately enrolled in SOBERLINK so that he could prove to the Board he is no longer drinking.

28. Dr. Dewar attended PBI Medical Ethics and Professionalism courses offered through UCI School of Medicine, a board-approved program. This is a 22 continuing medical education (CME) credit hour course. Dr. Dewar “attended 22 hours of the activity, part one of two courses. The second course is the PBI Maintenance and Accountability Seminars that require an additional 12 hours of activity, not included in” these 22 hours. Dr. Dewar successfully completed the PBI Medical Ethics and Professionalism Course-Extended Edition, on April 16 and 17, 2021, and was awarded 22/AMA PRA Category 1 Credits.

29. The agenda from the 12 hour PBI (Professional Boundaries, Inc.) course documented the extended boundaries and ethics, prescribing, communication, record keeping and medical ethics and professionalism course that the program offered.

30. A certificate titled “Ethics and Professionalism” documented that Dr. Dewar completed two days of PBI courses, two days of WILM courses, and two days of AELM courses. (The acronyms were not explained.) The courses were offered by approved providers accredited by Accreditation Council for Continuing Medical Education (ACCME).

31. On May 24, 2019, Dr. Dewar successfully completed the eight-hour MAT Online Waiver Training course sponsored by the American Academy of Addiction Psychiatry and “has met the 8 hour requirement specified in the Drug Addiction Treatment Act of 2000.”

### **The Medical Board’s Disciplinary Guidelines**

32. Official Notice was taken of the Board’s Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition 2016).

## **Closing Arguments**

33. Complainant argued that, given the evidence, Dr. Dewar's license should be placed on probation for three years with standard terms and conditions, as well as ordering him to abstain from alcohol and controlled substances, successfully complete a professionalism program, and undergo a psychiatric evaluation and psychotherapy.

34. Dr. Dewar argued that he did a reckless act, but no further action is necessary to ensure public safety. He does not dispute that he made a terrible mistake, but he has abstained from alcohol for over two and one-half years. The criminal action was a huge deterrent for him from ever acting this way again, and he had his criminal probation terminated early because of his compliance with the terms ordered. Dr. Dewar successfully completed the Enloe Wellness program, numerous professionalism and ethics programs, and has the full support of his colleagues, even being made a full partner in his medical group after his conviction. Dr. Dewar argued that the Board's guidelines allow for deviation if the evidence warrants it.

## **LEGAL CONCLUSIONS**

### **Purpose of Physician Discipline**

1. The purpose of administrative discipline is not to punish, but to protect the public by eliminating those practitioners who are dishonest, immoral, disreputable or incompetent. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.)

2. Business and Professions Code section 2229 states: "Protection of the public shall be the highest priority" for the Medical Board.

### **The Burden and Standard of Proof**

3. Complainant bears the burden of establishing that the causes pled in the accusation are true. (*Martin v. State Personnel Medical Board* (1972) 26 Cal.App.3d 573, 582.)

4. The standard of proof in an administrative action seeking to suspend or revoke a physician and surgeon's certificate is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

5. Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.) The requirement to prove by clear and convincing evidence is a "heavy burden, far in excess of the preponderance sufficient in most civil litigation. [Citation.]" (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.) "The burden of proof by clear and convincing evidence 'requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind.' [Citation.]" (*Ibid.*)

## **Applicable Code Sections**

6. Business and Professions Code section 2227 states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

7. Business and Professions Code section 2234, states in part:

The medical board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

[¶] . . . [¶]

8. Business and Professions Code section 2236 states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

[M] . . . [M]

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

9. Business and Professions Code section 2239, subdivision (a), states:

The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct.

The record of the conviction is conclusive evidence of such unprofessional conduct.

## **Applicable Regulation**

10. California Code of Regulations, title 16, section 1360, provides that a crime or act is substantially related to the qualifications, functions, or duties of a physician and surgeon if, to a substantial degree, it evidences present or potential unfitness to perform the functions of a physician and surgeon in a manner consistent with the public health, safety, or welfare.

## **Evaluation of the Causes for Discipline Alleged**

11. Dr. Dewar violated Business and Professions Code sections 2234 and 2236 and California Code of Regulations, title 16, section 1360, when he was convicted of a substantially related crime on April 3, 2019. Dr. Dewar drove under the influence of alcohol in violation of Vehicle Code section 23153, subdivision (a). Physicians are expected to exercise good judgement and his conviction demonstrated a lack of judgment and an inability to perform the functions of a physician and surgeon in a manner consistent with the public health, safety, or welfare.

12. Dr. Dewar violated Business and Professions Code sections 2234 and 2239, subdivision (a), when he used alcohol in a manner that was dangerous to himself or others. His blood alcohol content was 0.16 and he was unable to perform field sobriety tests.

13. Dr. Dewar violated Business and Professions Code section 2234, subdivision (a), because he suffered a substantially related conviction and used alcohol in a dangerous manner. Each of those acts, alone, exhibited unprofessional conduct.

## **The Board's Disciplinary Guidelines**

14. With causes for discipline having been found, the degree of discipline to impose must now be determined. In this regard, the Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition 2016) state they are intended to be used in the physician disciplinary process but "are not binding standards." Further:

The Board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake Board-ordered rehabilitation, the age of the case, and evidentiary problems, Administrative Law Judges hearing cases on behalf of the Board and proposed settlements submitted to the Board will follow the guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

15. California Code of Regulations, title 16, section 1360.1, sets forth the factors to be considered in determining discipline. As stated:

(a) When considering the suspension or revocation of a license under Section 490 of the code on the ground that a person holding a license has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

- (1) The nature and gravity of the crime(s).
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.



(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), or the suspension or revocation is based on disciplinary action as described in Section 141 of the Code, the board shall apply the following criteria in evaluating the licensee's rehabilitation:

- (1) The nature and gravity of the act(s), professional misconduct, or crime(s).
- (2) The total criminal record, or record of professional misconduct.
- (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.
- (5) The criteria in subdivisions (a)(1)-(5), as applicable.
- (6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.
- (7) Evidence, if any, of rehabilitation submitted by the licensee.

Those factors were considered in this decision.

## **Rehabilitation**

16. Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully

acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.)

17. The mere expression of remorse does not demonstrate rehabilitation. A truer indication of rehabilitation will be presented if a petitioner can demonstrate by sustained conduct over an extended period of time that she is rehabilitated and fit to practice. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.)

18. The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) Cal.3d 1061, 1070.)

### **GOOD BEHAVIOR WHILE ON CRIMINAL PROBATION**

19. Since persons under the direct supervision of judicial or correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that such an individual did not commit additional crimes or continue inappropriate behavior while under supervision. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) Compliance with the law while one is on court ordered probation “does not necessarily prove anything but good sense.” (*Windham v. Board of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 473.) When a person is on criminal probation or parole, rehabilitation efforts are accorded less weight “[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion...” (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

Dr. Dewar was on criminal probation from 2019 until 2021, so while little weight may be given to his “good behavior” during that time, it is important to note that the criminal court granted his Penal Code section 1203.4 petition for early termination because of his early completion of all terms ordered and his overall compliance.

### **Evaluation of Discipline**

20. Having found that Dr. Dewar violated the Business and Professions Code sections outlined above, the issue is what discipline to impose given the evidence.

The Board acknowledges that following his DUI, Dr. Dewar has taken steps to remedy his wrong including taking early responsibility for his actions. He successfully completed all criminal probation terms ordered, but this is expected. His Penal Code section 1203.4 petition for early termination was granted, ending his three-year probation after just two years. He has taken several affirmative measures to ensure his conduct does not recur, including completing numerous hours of Board-approved professionalism and ethics courses, and using SOBERLINK to verify that he is no longer drinking. Of note, Dr. Dewar did not undergo formal, observed biological fluid screening to demonstrate that he has remained sober since the DUI incident.

The Board further acknowledges that Dr. Dewar also has the full support of his colleagues, and his hospital privileges were never suspended. He has been evaluated by his hospital's Wellness Committee and by Dr. Smith, a distinguished substance abuse physician. Neither thought Dr. Dewar required any additional monitoring, courses, or therapy.

While the Board appreciates Dr. Dewar's efforts and his colleagues and evaluators' input, the Board's highest priority is consumer protection. The fact is that Dr. Dewar consumed an excessive amount of alcohol knowing that he was going to be driving to pick up his girlfriend at the airport, putting himself, the public, and his girlfriend at risk. Dr. Dewar drove while intoxicated at a level at least twice the legal limit, and he was convicted of a DUI, a crime substantially related to the practice of medicine.

The Disciplinary Guidelines for each violation committed by Dr. Dewar (violation of Business and Professions Code sections 2234, 2236, and 2239), call for a minimum of five years' probation along with special and standard terms and conditions. The Board agrees that deviation from the Disciplinary Guidelines is warranted in this case but finds that a public reprimand is insufficient to protect the public because it does not permit the Board to monitor Dr. Dewar's behavior and commitment to remain sober and pursue further rehabilitation. Consequently, the Board has determined that a 35-month period of probation with appropriate terms and conditions corresponding with the violations Dr. Dewar committed is appropriate to protect

the public and further his rehabilitation. Additionally, although prohibiting a physician from supervising physician assistants and advanced practice nurses is a standard condition of probation, the Board has determined that this condition is not necessary in this case for public protection.

## **ORDER**

Physician's and Surgeon's Certificate Number A 116385 issued to Respondent Christopher Michael Dewar, M.D., is revoked. However, the revocation is stayed and Respondent is placed on thirty-five (35) months' probation under the following terms and conditions:

### **1. Alcohol - Abstain From Use**

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an Accusation and/or a Petition to Revoke Probation is effective. An Accusation and/or Petition to Revoke Probation shall be filed by the Board within 30 days of the notification to cease practice. If Respondent requests a hearing on the Accusation and/or petition to revoke probation, the Board shall provide Respondent with a hearing within 30 days of the request, unless Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision,

request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an Accusation or Petition to Revoke Probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

## **2. Controlled Substances - Abstain from Use**

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide Respondent with a hearing within 30 days of the request, unless Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed

Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

### **3. Biological Fluid Testing**

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall

not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

#### **4. Psychiatric Evaluation**

Within 60 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the

cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

## **5. Psychotherapy**

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.



## **6. Professionalism Program (Ethics Course)**

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent.

Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

## **7. Notification**

Within seven days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which

extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

#### **8. Obey All Laws**

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

#### **9. Quarterly Declarations**

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

#### **10. General Probation Requirements**

##### Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

##### Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number.

Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

### Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

### License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

### Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

## **11. Interview with the Board or its Designee**

Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

## **12. Non-practice While on Probation**

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to

be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Controlled Substances; and Biological Fluid Testing.

### **13. Completion of Probation**

Respondent shall comply with all financial obligations (i.e., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

#### **14. Violation of Probation**

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

#### **15. License Surrender**

Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

#### **16. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

The Decision shall become effective at 5:00 p.m. on April 6, 2022.

IT IS SO ORDERED this 7th day of March, 2022.

A handwritten signature in black ink, appearing to read 'LR Lubiano', is written over a horizontal line.

Laurie Rose Lubiano, J.D., Chair  
Panel A  
Medical Board of California

1 XAVIER BECERRA  
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*Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2019-051929

14 **Christopher Michael Dewar, M.D.**  
15 **4627 OCEAN BL #303**  
**SAN DIEGO, CA 92109**

**A C C U S A T I O N**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 116385,**

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity  
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs  
23 (Board).

24 2. On or about April 1, 2011, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. A 116385 to Christopher Michael Dewar, M.D. (Respondent). The Physician's  
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on April 30, 2021, unless renewed.

28 ///

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states, in pertinent part:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

...

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

...

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1           6. Unprofessional conduct under Business and Professions Code section 2234 is conduct  
2 which breaches the rules or ethical code of the medical profession, or conduct which is  
3 unbecoming a member in good standing of the medical profession, and which demonstrates an  
4 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
5 575.)

6           7. Section 2236 of the Code states:

7           (a) The conviction of any offense substantially related to the qualifications,  
8 functions, or duties of a physician and surgeon constitutes unprofessional conduct  
9 within the meaning of this chapter. The record of conviction shall be conclusive  
10 evidence only of the fact that the conviction occurred.

10           ...

11           (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is  
12 deemed to be a conviction within the meaning of this section and Section 2236.1.

13           The record of conviction shall be conclusive evidence of the fact that the conviction  
14 occurred.

15  
16           8. Section 2239 of the Code states:

17           (a) The use or prescribing for or administering to himself or herself, of any  
18 controlled substance; or the use of any of the dangerous drugs specified in Section  
19 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous  
20 or injurious to the licensee, or to any other person or to the public, or to the extent that  
21 such use impairs the ability of the licensee to practice medicine safely or more than  
22 one misdemeanor or any felony involving the use, consumption, or  
23 self-administration of any of the substances referred to in this section, or any  
24 combination thereof, constitutes unprofessional conduct. The record of the  
25 conviction is conclusive evidence of such unprofessional conduct.

26  
27           9. California Code of Regulations, title 16, section 1360, states:

28           For the purposes of denial, suspension or revocation of a license, certificate or  
permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime  
or act shall be considered to be substantially related to the qualifications, functions or  
duties of a person holding a license, certificate or permit under the Medical Practice  
Act if to a substantial degree it evidences present or potential unfitness of a person  
holding a license, certificate or permit to perform the functions authorized by the  
license, certificate or permit in a manner consistent with the public health, safety or  
welfare. Such crimes or acts shall include but not be limited to the following:  
Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
violation of, or conspiring to violate any provision of the Medical Practice Act.

1 **FIRST CAUSE OF DISCIPLINE**

2 **(Conviction of an Offense Substantially Related to the Qualifications,**  
3 **Functions or Duties of a Physician and Surgeon)**

4 10. Respondent has subjected his Physician's and Surgeon's Certificate No. A116385 to  
5 disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, and  
6 California Code of Regulations, title 16, section 1360, in that he has been convicted of an offense  
7 substantially related to the qualifications, functions, or duties of a physician and surgeon, as more  
8 particularly alleged hereinafter:

9 11. On or about December 14, 2018, a California Highway Patrol (CHP)<sup>1</sup> Officer was  
10 called to a two vehicle collision in Colusa County, California. The CHP Officer observed  
11 Respondent and believed Respondent was intoxicated and unable to operate his vehicle safely.  
12 The CHP Officer advised Respondent at approximately 1901 hours with informed consent if he  
13 wanted to take a blood or breath alcohol test. Respondent gave consent to take a breath test. The  
14 CHP officer instructed Respondent that in order to take an accurate breath test, he could not spit,  
15 vomit, or burp. Respondent proceeded to burp. The CHP officer made a second attempt to  
16 administer a breath test and Respondent burped again. Respondent then informed the CHP  
17 Officer that he would prefer to take a blood test. Respondent was transported to the Colusa  
18 Medical Center in Colusa, California and a blood alcohol test was administered. Respondent's  
19 blood alcohol content (BAC) was .161%. CHP Officer placed Respondent under arrest for  
20 driving under the influence of alcohol.

21 12. On or about January 14, 2019, the Colusa County District Attorney's Office filed a  
22 criminal complaint against Respondent in the matter of the *People of the State of California v.*  
23 *Christopher Michael Dewar*, Colusa County Superior Court Case No. CR60658. Respondent  
24 was charged with two misdemeanor accounts including: (1) Violation of Penal Code section  
25 23152(a) of the California Vehicle Code, driving under the influence of alcohol; and (2) Violation  
26 of Penal Code section 23152(b), driving while having a blood alcohol level of 0.08% or higher.

27 \_\_\_\_\_  
28 <sup>1</sup> Identity of Officer is withheld at this time for privacy concerns. The name(s) will be  
provided to Respondent upon written request for discovery.

1       13. On or about April 3, 2019, Respondent was convicted upon his plea of guilty to one  
2 misdemeanor count, driving under the influence of alcohol, in violation of Penal Code section  
3 23152(a). Respondent was sentenced to three (3) years' probation, five (5) days' work release, to  
4 enroll in and complete a three (3) month first offender DUI school, and pay \$1,858 in fines.

5                               **SECOND CAUSE OF DISCIPLINE**

6                   **(Use of Alcoholic Beverages to the Extent, or in Such a Manner, as to be**  
7                   **Dangerous or Injurious to Himself, Another Person, or the Public.)**

8       14. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
9 A 116385 to disciplinary action under sections 2227 and 2234, as defined by section 2239,  
10 subdivision (a), of the Code, in that he has used alcoholic beverages to the extent, or in such a  
11 manner, as to be dangerous or injurious to himself, another person, or the public, as more  
12 particularly alleged in paragraphs 10 through 13, above, which are hereby incorporated by  
13 reference and realleged as if fully set forth herein.

14                               **THIRD CAUSE OF DISCIPLINE**

15                   **(General Unprofessional Conduct)**

16       15. Respondent has further subjected his Physician's and Surgeon's Certificate A 116385  
17 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in  
18 conduct which breaches the rules or ethical code of the medical profession, which is unbecoming  
19 to a member in good standing of the medical profession, and which demonstrates an unfitness to  
20 practice medicine, as more particularly alleged in paragraphs 10 through 14, above, which are  
21 hereby incorporated by reference and realleged as if fully set forth herein.

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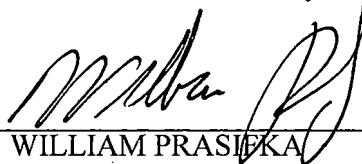
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 116385, issued to Christopher Michael Dewar, M.D.;
2. Revoking, suspending or denying approval of Christopher Michael Dewar, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Christopher Michael Dewar, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: **OCT 21 2020**

  
\_\_\_\_\_  
WILLIAM PRASIEKA  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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